

REMARKS

Introduction

A three-month extension of time to respond to the June 13, 2005 Office Action is hereby respectfully requested. The Director is hereby authorized to charge \$510.00 in payment of the three-month extension of time fee, and any additional fees required under 37 C.F.R. § 1.17 in connection with the paper(s) transmitted herewith, or to credit any overpayment of same, to Deposit Account No. 06-1075 (order no. 099999.0099). A duplicate copy of this Reply is transmitted herewith.

The specification has been amended to correct minor inadvertent and typographical errors. Claims 11 and 24 have been cancelled without prejudice. Claims 1, 8, 13, 18, 19, and 25 have been amended. Claims 2-7, 9, 10, 12, 14-17, 20-23, and 26 are also currently pending in this case. No new matter has been added by any of the amendments to the specification or claims.

Claims 1-10, 12-23, 25, and 26 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Friedland et al. U.S. Patent 6,449,601 (hereinafter "Friedland").

Reconsideration and allowance of this application in light of the following remarks is hereby respectfully requested.

The Rejections Based on 35 U.S.C. § 102

Claims 1-10, 12-23, 25, and 26 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Friedland. These rejections are respectfully traversed.

Claims 1-10, 12, and 26

As defined by applicants' amended independent claim 1, a method of accepting prebids in advance of a live auction

includes allowing bidders to transmit prebids, wherein each prebid transmitted includes a maximum prebid amount. The method of applicants' amended independent claim 1 further includes recording the prebids in a prebid database and submitting a winning prebid from the prebid database to the live auction, wherein "a prebid can optionally include an opening prebid amount in addition to the maximum prebid amount." This flexible prebidding is shown, for example, by step 4(d) of applicants' FIG. 4 and by the sample web page of applicants' FIG. 6, and allows "a bidder to submit an opening prebid (signified by the minimum prebid amount) as well as the highest amount which they are willing to bid (their maximum prebid amount)," such that the system may "automatically increment the flexible prebids within the range defined by their minimum and maximum prebid amounts to effectively conduct an 'auction before the auction' to ascertain the highest prebid which would be submitted to the live auction of the auction lot in question," (applicants' specification, page 44, line 16 through page 45, line 3).

On page 4, lines 4-6 of the Office Action of June 13, 2005, the Examiner stated that column 6, line 53 through column 7, line 20 of Friedland teaches "a prebid [that] can optionally include an opening prebid amount in addition to the maximum prebid amount." Applicants respectfully disagree.

Nowhere does Friedland discuss recording prebids in a prebid database and submitting a winning prebid from the prebid database to a live auction, wherein "a prebid can optionally include an opening prebid amount in addition to the maximum prebid amount," as is required by applicants' amended independent claim 1. Instead, column 6, line 53 through column 7, line 20 of Friedland simply describes various states

that a lot may transition to from its open-for-bidding state (e.g., pass state 218, fair warning state 228, last chance state 230, etc.). Friedland does not teach accepting a prebid transmitted from a bidder to a prebid database, wherein the prebid includes an opening prebid amount in addition to a maximum prebid amount. Furthermore, Friedland does not teach selecting a winning prebid from such prebids and submitting the winning bid from the prebid database to a live auction.

Therefore, applicants respectfully submit that Friedland does not teach each and every element of applicants' amended independent claim 1, and, therefore, Friedland does not anticipate applicants' independent claim 1. Thus, for at least the above reasons, applicants' independent claim 1 is allowable over Friedland. Applicants respectfully request, therefore, that the rejection under 35 U.S.C. § 102(e) of applicants' independent claim 1, and any claims dependent therefrom, including claims 2-10, 12, and 26, be withdrawn.

Claims 13-23 and 25

As defined by applicants' amended independent claim 13, a web site system for accepting prebids from bidders in advance of live auctions includes a prebid control system for receiving the details of a prebid including a maximum prebid amount from a bidder computer. The system of applicants' amended independent claim 13 further includes recording the prebids in a prebid database and submitting a winning prebid from the prebid database to the live auction, wherein "a prebid submitted by a bidder can optionally include an opening prebid amount in addition to the maximum prebid amount."

Therefore, for at least the same reasons as described above with respect to applicants' independent claim 1,

Application No. 09/757,722
Amendment dated December 13, 2005
Reply to Office Action of June 13, 2005

applicants respectfully submit that Friedland does not teach each and every element of applicants' amended independent claim 13, and, therefore, Friedland does not anticipate applicants' independent claim 13. Thus, for at least the above reasons, applicants' independent claim 13 is allowable over Friedland. Applicants respectfully request, therefore, that the rejection under 35 U.S.C. § 102(e) of applicants' independent claim 13, and any claims dependent therefrom, including claims 14-23 and 25, be withdrawn.

Conclusion

The foregoing demonstrates that claims 1-10, 12-23, 25, and 26 are allowable. This application is therefore in condition for allowance.

Respectfully submitted,



Jeffrey C. Aldridge
Registration No. 51,390
Agent for Applicants
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1105
Tel.: (212) 596-9000
Fax: (212) 596-9090